

Agency: 110 Office of Administrative Hearings

Decision Package Code/Title: AA 15-17 Working Cap Reserve Rate Inc

Budget Period: 2015-17

Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of Administrative Hearings (OAH) requests a rate increase of \$3.50 over three years to incrementally add to the balance of the agency's dedicated fund (484) to address a structural cash deficiency problem. On January 30, 2014, the Office of Financial Management (OFM) granted authorization for the Administrative Hearings Revolving Account (484) to be in a temporary cash deficiency of up to \$1.2 million (see attached). That authorization will expire on June 30, 2015. OFM further recognized the potential for a second temporary cash deficiency authorization while building an appropriate reserve.

Fiscal Detail

Operating Expenditures **Total**

Total Cost

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	512,478	509,969	1,022,447
Total Revenue		512,478	509,969	1,022,447

Package Description:

This decision package proposes a rate increase of \$3.50 per Administrative Law Judge billable hour for FY16, FY17, and FY18 which will gradually create the needed working capital reserve, equivalent to 30 days of operations, to avoid cash deficits over a three-year period.

In July 2013, OAH began a new process that no longer bills agencies in advance for services expected to be rendered in the future. This decision package is necessary to account for the shift from a prospective to a retrospective billing system.

As OAH is a revolving fund agency, no action was taken to increase the rate charged to state agencies in the current biennium and instead guidance was received to incorporate the rate increase into the rate setting process for the 15-17 Biennium.

This action will not increase the agency's spending, appropriation or allotments. In addition, it does not increase overall state spending but does have an effect of requiring additional appropriation authority for OAH's referring agencies.

The Fund 484 Treasurer's average daily balance for June 2014 was a negative \$1,099,313 which reflects the structural deficit in the fund balance. OAH projects the average monthly expenditure for OAH in 15-17 biennium to be approximately \$1.5 million. To reach

a 30-day minimum operating reserve would require increasing the billing rate by \$3.50 over three years.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

OAH will be able to comply with state accounting and financial operations standards.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements two goals in the OAH Strategic Plan, Goal 2 "Promote efficiencies and increase customer value" and Goal 3 "Enhance accountability and quality performance".

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Funding supports the Governor's priority to "...deliver customer satisfaction, employee engagement and innovation, and transparency and accountability". Without an adequate fund balance, the agency would require abrupt reductions in needed services to maintain a positive cash balance.

What are the other important connections or impacts related to this proposal?

This proposal impacts the agencies that use OAH services to the extent they will be charged \$3.50 more per ALJ hour for adjudicative services. The proposal spreads the development of the 30-day reserve over a three-year period to minimize the impact on referring agencies.

What alternatives were explored by the agency, and why was this alternative chosen?

OAH considered billing agencies in advance for services expected to be incurred in the future. The advance funding approach is similar to the older approach used in the past for DSHS and ESD, the two largest referring client agencies. This alternative adds complexity and reduced transparency in financial operations and treats larger agencies differently than other "customers" of OAH services.

What are the consequences of adopting or not adopting this package?

OAH will not be able to meet state financial requirements and require additional exception letters from OFM.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Revenue estimated based on projections of the judge billable hours in the maintenance level for OAH charges to referring client agencies.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The total anticipated carry forward level is estimated to be \$509,969 in FY 2018.

Agency: 110 Office of Administrative Hearings

Decision Package Code/Title: 8L Lease Rate Adjustments

Budget Period: 2015-17

Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

This request reflects cost reductions related to closing the OAH Vancouver facility and cost increases for the Tacoma Rhodes building.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	(44,780)	(40,757)	(85,537)
Total Cost	(44,780)	(40,757)	(85,537)

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	(44,780)	(40,757)	(85,537)
Total Revenue		(44,780)	(40,757)	(85,537)

Package Description:

On December 31, 2014 the OAH Vancouver facility will be closed. OAH exercised the lease option to terminate the lease that was to expire in May of 2015. Analysis determined that the space was oversized and underutilized for the staffing level and business needs. Additionally, this facility had a history of deficiencies such as; flooding, roof leakage, and poor data connectivity. OAH expects a reduction in costs from the Vancouver closure of \$129,249 in the FY15-17 biennium.

In alignment with the Governor's Executive Order 14-02 to expand telework and flexible work hours, OAH has assessed our business operations and is able to offer our judges telework options. Our Administrative Law Judges perform most hearings via phone. For the infrequent in-person hearings OAH will work with other state agencies to use their facilities to meet our hearing room needs or rent space on an hourly or daily basis as-needed.

Contributing to the success of reduced traffic congestion, improved quality of life for employees and reduced environmental impact is a positive move for OAH. Our administrative functions will be centralized in the OAH Olympia office, providing better collaboration and identification of best practices.

OAH relocated a portion of its footprint in DES's Tacoma Rhodes facility to a new area because of water leakage problems. This in combination with rate increases resulted in an increase in the Tacoma lease costs of \$43,712 in the FY15-17 biennium.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

We expect an increase in the use of telework and savings on facility related costs.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This decision package ties to Goal 5 - "Promote efficiencies and increase customer value."

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Yes, the Governor's Executive Order No. 14-02 regarding telework.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

The agency explored the move to a state-owned facility (Department of Transportation) which would be modified to provide space for eight employees and a hearing room. The cost, particularly, the requirement to amortize all of the improvements in the current fiscal year, made this option unaffordable.

What are the consequences of adopting or not adopting this package?

Not approving this package would result in increased cost and a lost opportunity for the agency to refine its telework capabilities.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

For the Vancouver closure, the facility-related costs including the lease and utilities were included in the savings, less assumed savings

from a previous downsizing adjustment to the agency's budget and additional hearing room rental cost estimated at \$6,240 a year.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

All cost savings are ongoing, approximately \$41,000 per fiscal year.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
E	Goods\Other Services	(44,780)	(40,757)	(85,537)

Agency: 110 Office of Administrative Hearings

Decision Package Code/Title: 8P Postage Rate Adjustments

Budget Period: 2015-17

Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

Funding of \$176,000 for the 15-17 biennium is requested for increased mailing volume and rates. In FY14, the cost of postage for Employment Security mailings sent from Olympia were shifted from the Employment Security Department to the Office of Administrative Hearings (OAH) resulting in a significant increase in the volume hearing notices and orders mailed at OAH's expense. This change occurred as a new case management system was implemented shifting more work to the OAH Spokane office. Also, the agency did not include a maintenance level adjustment for the increase in first class postage from \$0.46 to \$0.49.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	88,000	88,000	176,000
Total Cost	88,000	88,000	176,000

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	88,000	88,000	176,000
Total Revenue		88,000	88,000	176,000

Package Description:

Funding for \$176,000 for the FY 15-17 biennium is requested for increased volume and rate changes for postage. On average over 2,000 ESD cases each month generate mailings for hearing notices and final orders of which an estimated 60 percent were transferred by a daily pick-up from the Olympia OAH office by an ESD employee to be mailed by ESD. This process ended in FY14 and the OAH cost for postage correspondingly increased.

In January of 2014, the U.S. Postal Service increased their rates by 6.5% for first class postage. This package also requests funding for that rate increase.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

OAH will continue to meet the legal requirement for notices and orders to the parties of appeals.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request is needed to implement the goal of "Enhance accountability and quality performance". Currently, the use of mail is the primary means of communications with appellants and that goal requires ongoing funding for postage.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Funding supports the Governor's priority to "...deliver customer satisfaction, employee engagement and innovation, and transparency and accountability".

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

The agency is actively pursuing technologies that will reduce the need for mailing notices and orders in the current fiscal year. However, at this time, the ability to successfully establish an electronic notice and order alternative cannot be assessed nor does OAH have an estimate of the number of parties who would choose electronic only delivery to offset the cost of mailing.

What are the consequences of adopting or not adopting this package?

OAH relies on the mail as the key means of communicating with its customers. Without funding to continue, the agency will not succeed in meeting customer expectations and legal requirements.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Costs were calculated based on current postage costs for the average unemployment insurance case assuming 60 percent were being sent from the Olympia office had the postage paid directly by ESD. Each case requires a minimum of two mailings - a notice of hearing and a final order be sent to on average, 2.5 parties to the case.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are on-going and will carry forward into future biennia.

The total anticipated carry forward levels should be \$ \$26,382 per FY.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
E	Goods\Other Services	88,000	88,000	176,000

Agency: 110 Office of Administrative Hearings

Decision Package Code/Title: 8R Retirement Buyout Costs

Budget Period: 2015-17

Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

This decision package requests appropriation authority to fund Office of Administrative Hearings's (OAH) costs for employees leaving state service projected at \$121,000 for the 15-17 Biennium.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	60,428	60,428	120,856
Total Cost	60,428	60,428	120,856

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	60,428	60,428	120,856
Total Revenue		60,428	60,428	120,856

Package Description:

OAH is experiencing increased costs for payment of accrued leave upon termination. In the first 14 months of the current biennium, OAH has had over \$94,000 in terminal leave costs. Our workforce is older than the state average and we expect to see a continuation of this cost trend in the 15-17 Biennium.

Narrative Justification and Impact Statement***What specific performance outcomes does the agency expect?***

We will be able to meet our financial responsibilities by funding a predictable and unavoidable cost.

Performance Measure Detail

Activity:

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This decision package ties to Goal 5 - "Promote efficiencies and increase customer value."

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Funding supports the Governor's priority to "...deliver customer satisfaction, employee engagement and innovation, and transparency and accountability."

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

None.

What are the consequences of adopting or not adopting this package?

Not approving this package would result in increased likelihood for a shortfall in agency appropriation authority.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

The monthly average of the first 14 months sub object AT, Terminal Leave cost, reduced by 25% and supported by a review of existing positions eligibility for retirement the was used to estimate the expenditures.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

At this time future costs are indeterminate. We will reevaluate the composition of the workforce in the context of potential termination related costs in future biennia.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A	Salaries And Wages	60,428	60,428	120,856

BASS - BDS017

State of Washington
Decision Package

FINAL

Agency: 110 Office of Administrative Hearings
Decision Package Code/Title: 9Q Equip Maintenance/Software licenses
Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

Funding for \$51,300 for the FY 15-17 biennium is requested for increased software charges for Microsoft Office licenses, scheduled software cost increase for a caseload management system and data center charges for moving to the new State Data Center.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	24,900	26,400	51,300
Total Cost	24,900	26,400	51,300

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	24,900	26,400	51,300
Total Revenue		24,900	26,400	51,300

Package Description:

Funding in the amount of \$51,300 for the 15-17 biennium is requested for increased software charges for Microsoft Office licenses due to a change in the licensing approach and related "true-up" of the number of licenses. OAH moved from a Citrix-based server licensing arrangement in which licenses were associated with the number of users that tracked closely with the number of FTEs to a client-based license approach that requires that each device have a license. There are 59 more licenses required on this device-driven approach (examples include devices in hearing rooms, meeting rooms, training laptops etc.) with an annual license cost of \$204.78 each.

The OAH contract with Caseload Inc. software increases the cost for licensing a mission-critical case management system necessary to process the Employment Security Department's caseload. The biennial cost increase is \$13,500.

OAH will have increased costs of \$18,600 a biennium for moving the agency data center to the new State Data Center. OAH moved its application and development servers from an in-house facility to the new State Data Center to address critical performance and risks associated with power and cooling.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

OAH will comply with the legal requirements for software licensing, continue use of a mission critical caseload application and address IT continuity of operations risks.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goals of "Promote efficiencies and increase customer value" and "Enhance accountability and quality of services".

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Funding supports the Governor's priority to "...deliver customer satisfaction, employee engagement and innovation, and transparency and accountability". Without reliable technology, customers and employees will not be able to maintain the quality and timeliness of services.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

The agency considered the cost and risk of programming a new case management system to replace the Caseload, Inc. application but determined that resources and risk at this time did not warrant that alternative.

The agency also is looking at alternatives to agency-owned physical hardware such as cloud or fully hosted computing; however, the urgency to address the risk and cost issues made those options unacceptable.

What are the consequences of adopting or not adopting this package?

OAH relies on its technology to provide cost-effective services to over 30 state agencies and the citizens and businesses who are parties to the appeals. It is critical that applications operate effectively and reliably.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Costs were calculated based on existing contract information and agreements.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

On-going.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
E	Goods\Other Services	24,900	26,400	51,300

Agency: 110 Office of Administrative Hearings

Decision Package Code/Title: A0 15-17 15 Percent Reduction

Budget Period: 2015-17

Budget Level: PL - Performance Level

Recommendation Summary Text:

This decision package is submitted pursuant to the OFM requirement for a 15 percent reduction from central service agencies. The proposal is to reduce the amount of hearing workload performed on behalf of the Employment Security Department's (ESD) Unemployment Insurance program equivalent to a 15 percent reduction in OAH spending from the projected FY15-17 maintenance level (\$5.2 million).

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	(2,639,000)	(2,645,000)	(5,284,000)
Total Cost	(2,639,000)	(2,645,000)	(5,284,000)
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs	-27.0	-27.0	-27.0

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	(2,639,000)	(2,645,000)	(5,284,000)
Total Revenue		(2,639,000)	(2,645,000)	(5,284,000)

Package Description:

This request achieves a 15 percent reduction in OAH services provided to the Employment Security Department's (ESD) Unemployment Insurance (U.I.) program.

To achieve that level of reduction will require OAH to decline to perform approximately 31,000 hours of Administrative Law Judge (ALJ) work per year. This represents an approximate 19 percent reduction in OAH's total workload for 24 agencies included in the state's central service model. It is important to note that because fixed costs (i.e., facilities, management, certain central service charges, IT, etc.), the OAH rate for all the remaining workloads of referring agencies must increase by approximately \$9.00 per ALJ billable hour.

OAH believes that this decision package will not achieve actual savings. Based on information from ESD, the requirement to provide the hearings that would no longer be performed by OAH will still need to be met.

Further, these reductions are contrary to our mission to provide state agencies and the public served by those agencies with access to independent cost-effective, fair and impartial hearings.

OAH has contacted ESD regarding their workload and while they have planned to continue to use our services for their projected workload for the FY 15-17 biennium, OAH must decline to provide service to the extent necessary to reach our mandated 15 percent reduction target. That would be an overall 61 percent reduction of ESD workload.

The mechanism to achieve the reduction is based on not billing ESD for hearing work not performed. This will result in a reduction in OAH's revenues and corresponding reduction in OAH's appropriation authority and related allotments. Concurrently, the ESD's amount in the Central Service Model for OAH services would be reduced to reflect the lower level of service. Again, it is important to note that it is unlikely to reduce overall state spending as the client agency's need for adjudicative services is not affected by who performs that activity.

Under OAH's business model, the 15 percent reduction requirement is an ineffective approach for achieving actual savings. As an agency that only provides service to state and local governments at their request, agencies choose OAH as their most cost-effective provider of adjudicative services. Denying agencies the opportunity to select their preferred provider may actually increase, not decrease state costs. Finally, almost all of OAH's referring client agencies' programs are exempt from the underlying 15 percent reduction. In other words, if the services were provided internally by those agencies, that spending would not be subject to the reduction.

It is assumed that ESD will need to find and fund a method to accomplish the appeal work no longer performed by OAH but still required under law. Whether this decision package results in savings or additional costs will depend upon the cost to ESD to replace OAH services.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The OAH expects to meet the OFM requirements for a submitting a 15 percent reduction in maintenance level spending.

The performance effects on the public would likely be delays in appeal hearings and the potential for "hand-off" problems as the caseloads shift from OAH to ESD.

We would expect that the hearing caseload returned to ESD will likely require significant one-time expenses for ESD to hire staff, train, and develop systems.

OAH would reduce staff by approximately 27 FTEs. (16.3 FTE judges and 10.8 FTE support staff).

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

No. This budget item is contrary to the strategies in the OAH strategic plan.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

No. Customer service will likely suffer; OAH would not be an employer of choice due to instability and layoffs of employees; the state would be less efficient as the state fails to use the most cost effective solution for adjudication therefore wasting resources and exhibiting poor stewardship.

What are the other important connections or impacts related to this proposal?

We also project that the 19% reduction in overall workload will increase rates for the remaining client agencies as certain fixed costs such as facilities and equipment that are under multi-year contracts and other non-variable overhead expenses must be borne by a smaller base of continuing agency programs - in effect, some loss of economies of scale. (See appendix 1 for detail impact).

ESD will likely incur initial startup costs to establish the required service levels provided by OAH.

What alternatives were explored by the agency, and why was this alternative chosen?

An across-the-board 30 percent salary reduction for all judges and other exempt staff equivalent to the savings target was considered. However, analysis indicated that the effect would be unsustainable - resulting in a large and rapid exit of highly trained judges and staff with critical skills and knowledge. The additional cost of recruitment, reduced quality and service level disruption makes this an unacceptable alternative.

What are the consequences of adopting or not adopting this package?

OAH will continue to seek efficiencies using LEAN techniques to remove waste in all of our processes. Our efforts have made significant savings and we have reached out to our client agencies to work jointly where our processes interact.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Assumed maintenance level for the selected programs would be approximately the same as FY14 with some adjustments for estimated caseload changes in the referring state agencies' program. The recovery of expenditures for services provided under the interagency agreement with the WSDOT was not included in the reduction base. We also assumed that the existing rate of \$120 per ALJ hour would be ongoing (i.e., did not include proposed ML and PL rate adjustments).

Attachment 2 addresses client agency funding requirements which support this request.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These savings are on-going and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	(1,678,000)	(1,678,000)	(3,356,000)
B Employee Benefits	(539,000)	(539,000)	(1,078,000)
E Goods\Other Services	(347,000)	(353,000)	(700,000)
G Travel	(37,000)	(37,000)	(74,000)
J Capital Outlays	(38,000)	(38,000)	(76,000)
Total Objects	(2,639,000)	(2,645,000)	(5,284,000)

BASS - BDS017

State of Washington
Decision Package

FINAL

September 10, 2014

Agency: 110 Office of Administrative Hearings
Decision Package Code/Title: N0 15-17 15 Percent Reduction Restore
Budget Period: 2015-17
Budget Level: PL - Performance Level

Recommendation Summary Text:

This decision package restores an Office of Administrative Hearings (OAH) policy decision package submitted in response to OFM's requirement for a 15 percent cut from central service agencies. This decision package reverses the proposal to reduce the amount of hearing workload performed on behalf of the Employment Security Department's (ESD) Unemployment Insurance (U.I.) program equivalent to a 15 percent reduction of the FY15-17 maintenance level (\$5.2 million).

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1	Administrative Hearings Revolving-State	2,639,000	2,645,000	5,284,000
Total Cost		2,639,000	2,645,000	5,284,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
	FTEs	27.0	27.0	27.0
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	2,639,000	2,645,000	5,284,000
Total Revenue		2,639,000	2,645,000	5,284,000

Package Description:

This request restores the 15 percent reduction in OAH services provided for the Employment Security Department's (ESD) Unemployment Insurance (U.I.) program.

OAH believes that the reduction decision package should not go forward as it is unlikely to achieve actual state savings as these adjudicative services that would not be performed by OAH will still need to be acquired by ESD to meet federal and/or state laws.

Not providing services through a central service agency does not achieve savings if the agency customer's need remains and that need is not discretionary.

The reduction decision package is detrimental to efficiencies achieved through economies of scale. The reduction of 31,000 hours of billable judge time requires fixed costs to be borne on a smaller base of continuing agency programs and adds \$9.00 an hour to the base rate - in effect shifting the cost of the lost economies of scale to all of OAH's remaining referring agencies' programs.

Finally, these reductions are contrary to our mission to provide state agencies and the public served by those agencies with access to cost-effective, fair and impartial hearings.

Because the referring agencies' need for adjudicative services is not affected by who performs that activity, and those requirements are federally and state required, the restoration is justified on practicality.

Under OAH's business model, the 15 percent reduction requirement is an ineffective approach for achieving actual savings. As an agency that only provides service to state and local governments at their request or in response to federal and/or state legal requirements, agencies choose OAH as their most cost-effective provider of adjudicative services. Denying agencies the option to select their preferred provider may actually increase, not decrease state costs. Adding to the unsuitability of this application of the 15 percent cut, almost all of the referring client agencies' programs are actually exempt from the underlying 15 percent reduction. In other words, if the services were provided internally by those agencies, that spending would not be subject to the reduction.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The OAH expects that it will continue to meet ESD's full need for adjudicative services. The performance effects on the public would be avoided, such as delayed hearings.

Potential "hand-off" problems as the caseload shifts from OAH to ESD would be avoided. We would expect to avoid the transition costs for ESD to develop and replace an administrative judicial process and related systems that support them. Examples of costs include hiring, training and case management systems.

The restoration of the reduction will avoid increasing rates for the remaining client agencies' programs as certain fixed costs such as facilities and equipment that are under multi-year contracts and non-variable overhead expenses must be borne by a smaller base of continuing agency programs - in effect, avoiding the loss of economies of scale in the short to moderate term.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

Yes. This budget item is central to the mission and reason for OAH's existence to provide adjudicative services to state agencies.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Yes. The restoration supports attention to customer service, efficient, effective and accountable quality services.

What are the other important connections or impacts related to this proposal?

ESD will avoid initial startup costs to establish the required service levels now provided by OAH. The OAH billable rate will not need to increase by approximately \$9.00 in order to cover the lost economies of scale from by the reduction of ESD workload.

What alternatives were explored by the agency, and why was this alternative chosen?

None.

What are the consequences of adopting or not adopting this package?

Regardless of the outcome of the cut or restoration decision packages, OAH will continue to seek efficiencies using LEAN techniques to remove waste in all of our processes. Our efforts have made significant savings and we have reached out to our referring agencies to work jointly where our processes interact.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Assumed maintenance level for the selected programs would be approximately the same as FY14 with some adjustments for estimated caseload changes in the referring state agencies' program. We also assumed that the existing rate of \$120 per ALJ hour would be ongoing. That assumption will vary depending upon action taken on our other decision packages.

Appendix 1 addresses client agency funding requirements which support this request.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These savings are on-going and will carry forward into future biennia.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A	Salaries And Wages	1,678,000	1,678,000	3,356,000
B	Employee Benefits	539,000	539,000	1,078,000
E	Goods\Other Services	347,000	353,000	700,000
G	Travel	37,000	37,000	74,000
J	Capital Outlays	38,000	38,000	76,000
Total Objects		2,639,000	2,645,000	5,284,000

BASS - BDS017State of Washington
Decision Package

FINAL

Agency: 110 Office of Administrative Hearings
Decision Package Code/Title: N1 15-17 Exempt Ad Judge Salary Parity
Budget Period: 2015-17
Budget Level: PL - Performance Level

Recommendation Summary Text:

The Office of Administrative Hearings (OAH) requests \$168,959 in FY2016 and \$394,032 in FY2017 to provide for salary increases to line Administrative Law Judges (ALJs) who provide judicial services for agencies that refer appeals to OAH. Parity and retention are the main reasons for this request. OAH line ALJs are exempt employees, that as a group, have not received a general salary increase since before the salary freeze in 2008.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484-1 Administrative Hearings Revolving-State	168,959	394,032	562,991
Total Cost	168,959	394,032	562,991

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
484 Admin Hearings Revol	0420 Charges for Services	168,959	394,032	562,991
Total Revenue		168,959	394,032	562,991

Package Description:

OAH requests \$168,959 in FY2016 and \$394,032 in FY2017 to provide quality administrative hearings for the public and referring agencies.

Compared with the salary levels in the current biennium, the proposed salary change is a 2.3 percent increase in the first year and an overall increase of 5.6 percent over the two year period. Meeting OAH's mission depends upon the availability and competence of our ALJs. This request addresses the disparity caused by sustained salary freezes on our ALJs who, but for their exempt civil service status, would have received regular step increases.

OAH employs approximately 110 exempt Administrative Law Judges who provide independent decisions to the public regarding appeals from determinations made by state and local government agencies. Our ALJs' exempt status promotes public trust and confidence in their independence. Unfortunately, this exempt employment structure provides no regular, annual salary increases like those provided in the classified employment structure. Since 2008, the salaries of our exempt ALJs have remained the same and now that the economy is recovering, OAH is experiencing significant turnover.

Administrative Law Judge 2, 3 and 4s (non-supervising judges) would be given a 5 percent salary increase on their OAH hire date in each fiscal year. Under the agency salary structure for ALJs, \$85,000 is the maximum for an ALJ3, and \$90,000 is the maximum for

an ALJ4. The average salary of this group of ALJs is currently \$76,302 and would increase to \$79,655 by the end of FY16 and \$82,252 by the end of FY17, which is an overall increase of less than six percent. This adjustment is necessary for two main reasons.

Reason 1 - Retention

OAH is experiencing a high rate of turnover in our ALJ positions, in part due to low compensation. Between April 2013 and August 2014, a total of 18 non-supervisory ALJs left the agency; an additional 4 ALJs have submitted their resignations for their departures in the September-October timeframe. This equates to a 20% turnover during an 18-month timeframe. Several of the ALJs who have left OAH stated in their exit interviews that salary was a contributing factor in their decision to leave.

OAH is behind the legal market for competitive salaries; more jobs are available in the current legal market than in the last five years of the great recession. OAH has not kept up with the competition and is now experiencing additional cost of rehiring including recruitment, training, and lost productivity.

Another factor causing our judges to exit is the opening of federal administrative law judge positions. A federal administrative law judge's entry salary is \$120,000, while OAH ALJs make on average \$77,942. OAH has been a virtual training ground for federal ALJ positions.

At the state level, OAH is experiencing turnover of our judicial staff to other state agencies such as the Board of Industrial Insurance Appeals (BIIA). The classified structure used by BIIA and other state adjudicatory agencies provides predictable salary increases on an annual basis and were not subject to the statewide salary freezes for exempt employees from 2008 to June 2013. Classified staff in analogous positions, such as the BIIA industrial appeals judge positions, received annual step increases as they were not affected by the statewide salary freezes for exempt employees from 2008 to June 2013. This has caused several of our judges to exit because they can receive more pay and annual raises in the classified structure.

Reason 2 - Equity

This request addresses the disparity caused by sustained salary freezes on our non-managerial ALJs. Of the 110 exempt judges that OAH employs, 75 are non-managerial and provide direct service to the public and our client agencies. The average tenure of these 75 employees is seven years of state service which means they are vested and have some incentive to continue their PERS 2 or 3 services. These employees would like to stay but know they are getting paid less than the average in similar local, state and federal positions. OAH stands to lose these highly skilled, trained staff and with them goes important knowledge of OAH business operations and the many, complex laws which they apply in conducting hearings and resolving disputes in their written decisions.

The average annual salary of a non-managerial OAH judge is \$77,942. An OAH Exempt ALJ salary is much lower than similar judge positions, such as the state classified (\$82,896), local (\$157,370) and federal (\$120,000) administrative law judges.

OAH responded to the increased demand for our services from state and local agencies during the great economic recession by hiring ALJs during a time when legal talent was facing a tough job market. This allowed OAH to hire ALJs at lower than normal cost which saved the state money. Since the economic recovery, more jobs are available in the legal market and our greatly underpaid ALJs face a serious parity issue. Rather than experiencing additional turnover, OAH is asking for additional money to fund salary increases. These salary increases are minimal and comparable to civil service step increases at 5 percent each year.

In 2013, in response to the workforce competition and salary disparity, management intentionally chose to backfill vacancies using internal promotional opportunities, rather than recruiting externally. Over the past five years OAH has promoted 29 employees from within. OAH also redirected resources from efficiencies to fund a one-time 3 percent salary increase for judges with five or more years of service with OAH.

The OAH contact for this request is Larry Dzieza, Finance Director, and he can be reached at (360) 407-2717.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The public has a legal right to be heard by a fair and impartial administrative hearing system that OAH provides. OAH builds public confidence in government by fairly and timely applying the law. The 33 agencies we serve rely on OAH to provide expertise regarding

the Administrative Procedure Act (APA) and the applicable substantive law. This service is provided directly by our highly trained and skilled Administrative Law Judges. In order to continue responding in a timely manner to this public right, we must be able to

retain the current workforce and compete in the legal market. Our ALJ workforce adjudicates over 100,000 cases each year for more than 80 programs for 33 agencies. When a seasoned ALJ exits, OAH loses the breadth and depth of their knowledge, which takes approximately three to five years for a new ALJ to acquire.

Without addressing this compensation issue we will see the exit of experienced and productive ALJs. This creates backlogs of unresolved cases for citizens and businesses as well as the agencies, many of which have timeliness targets required in federal law. Delays in processing cases can also have a negative revenue impact as recovery of state dollars and toll violation penalties are delayed or reduced or the state is required to continue to pay benefits while appellants are awaiting their hearings. OAH is a market-driven agency, meaning agencies are not required to use OAH services. They choose to do so because of the value we offer for quality, timely and independent hearings. The value we offer will be diminished if we do not address the parity and retention issues.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements the OAH Strategic Plan goals of "(1) strengthening public confidence in the administrative judiciary, (2) promoting efficiencies and increase customer value, and (3) enhancing accountability and quality of services."

"Justice delayed is justice denied." OAH's customer value proposition will be diminished if OAH continues to see growth in the rate of turnover causing slower turnaround times for the participants (customers) in the hearings OAH holds to resolve a wide variety of disputes.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

"Justice delayed is justice denied." OAH's customer value proposition will be diminished if OAH continues to see growth in the rate of turnover causing slower turnaround times for the participants (customers) in the hearings OAH holds to resolve a wide variety of disputes. Goal 5's results of an efficient, effective and accountable government is supported when OAH can maintain a stable workforce of experienced ALJs to provide independent, fair and impartial hearings, resolving disputes when citizens disagree with and appeal government actions that negatively affect their lives.

What are the other important connections or impacts related to this proposal?

Currently we bill our referring agencies a rate of \$120 per hour worked by ALJs on their cases. The impact to the referring agencies is an increase to the hourly billing rate approximately \$1.93 in the FY15-17 biennium. This is a minimal impact for the return on investment in our ALJs.

What alternatives were explored by the agency, and why was this alternative chosen?

In 2013, the OAH implemented process improvements which saved operational overhead. The overhead savings of \$67,338 were redirected to fund a one-time three percent salary increase for those ALJs who had been with the agency for more than 5 years without a salary increase.

Anticipated savings from operational efficiencies would not be sufficient to address this salary issue.

What are the consequences of adopting or not adopting this package?

The consequences are a higher rate of turnover, which results in lost productivity due to recruitment and the training required for new ALJs to become fully capable in the use of our systems and competent in many substantive areas of law. The average new ALJ takes

three to five years to become fully trained in our major caseloads. Training a new ALJ includes (1) approximately 72 hours in the classroom attending formal in-house Continuing Legal Education courses accredited by the Washington State Bar Association, (2) 8-12 months of mentorship, and (3) concentrated time by supervising judges.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

The salary and benefit increases were estimated based on the Salary Projection System baseline set in July of 2014. We estimate a 1.6% (\$1.93 billable hour) increase in rates to cover this decision package.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are on-going and will carry forward into future biennia.

The total anticipated carry forward levels will average approximately \$524,000 per fiscal year.

<u>Object Detail</u>		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A	Salaries And Wages	144,582	337,183	481,765
B	Employee Benefits	24,377	56,849	81,226
Total Objects		168,959	394,032	562,991